

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

COOKWARE SUSTAINABILITY ALLIANCE,

Plaintiff,

v.

KATRINA KESSLER,
Commissioner, Minnesota Pollution
Control Agency, in her official capacity,

Defendant.

Case No. 0:25-cv-00041(JRT/DTS)

**DECLARATION OF STEPHEN BURNS IN SUPPORT OF
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

I, Stephen D. Burns, hereby declare and state the following under 28 U.S.C. § 1746 in support of Plaintiff Cookware Sustainability Alliance's ("CSA") Motion for a Preliminary Injunction in the above-referenced matter:

1. I am the President of Plaintiff CSA, and am authorized to speak on its behalf.
2. CSA is a 26 U.S.C. § 501(c)(6) incorporated non-profit business league organization organized under the laws of California. It is dedicated to educating consumers and policy makers through scientifically accurate information about the safety of cookware products in order to promote sound decision-making.
3. In my capacity at CSA, I have been made aware of the following:
4. The terms "cookware" and "bakeware" are used, in the cookware and bakeware industry, to refer to products created to contain the surfaces on or in which food is cooked for human consumption. "Cookware" refers to such products designed to be used

primarily on stovetop, while “bakeware” refers to such products designed to be used primarily in an oven.

5. All cookware and bakeware sold in the United States falls into one of two general categories: (1) products that include a non-stick coating (“Non-stick Products”), and (2) products that do not include such a coating (“Other Products”).

6. The Other Products category is made up of a wide variety of products manufactured using a number of different materials, including: untreated metal substrates such as stainless steel, cast iron, aluminum, and steel; non-metal substrates such as stoneware and borosilicate glass; enameled substrates, whereby the cooking surface is a layer of enameled porcelain on top of a metal core; and various metal substrates that have some degree of pre-treatment to their surfaces or coatings.

7. In contrast, the Non-stick Products category is much more narrowly defined. There exist only three viable and commercially available technologies to create cookware that includes a non-stick coating: (1) fluoropolymer non-stick; (2) sol-gel; and (3) silicone-based non-stick.

8. Silicone-based non-stick coatings have been successfully used with certain categories of bakeware, but not usually with cookware. They are suitable for baking at comparatively lower maximum temperatures (*e.g.* 450°F). Additionally, they have inferior non-stick performance and durability.

9. As a result of these deficiencies with silicone-based non-stick coatings, the only viable technologies to create non-stick cookware are so-called ceramic systems and fluoropolymers.

10. Sol-gel is the process used in creating what is often referred to and marketed as “ceramic” non-stick cookware, which in reality is a coated cooking surface layered on top of a metal core. Because ceramic is not itself a non-stick surface, the sol-gel process creates a non-stick product by infusing the ceramic layer with a non-stick gel made up of silicone oil.

11. Fluoropolymer non-stick products, which represent the products traditionally and colloquially referred to as “non-stick” by consumers, are made by applying a coating of a fluoropolymer compound to a metal substrate. This fluoropolymer compound is inert, hydrophobic (meaning it repels water), naturally repels non-polar fats and oils, and has a high temperature resistance, all of which give the cookware its non-stick properties.

12. There are a number of different fluoropolymers used to create non-stick surfaces. The most commonly used fluoropolymer in the industry is polytetrafluoroethylene (“PTFE”). Other fluoropolymers in use to create non-stick cookware include fluorinated ethylene propylene (“FEP”) and perfluoroalkoxy (“PFA”). These fluoropolymers are sometimes colloquially referred to as Teflon, which is a particular brand name. All fluoropolymers in use to create non-stick cookware have certain essential features in common, however. In particular, their chemical composition consists of long chains of carbon atoms bonded together. These carbon atoms form the spine of the polymer molecule, along which fluorine and other atoms are bonded.

13. So-called “ceramic” and fluoropolymer non-stick products differ in a number of significant ways. In terms of usability from the consumer perspective, however, the critical difference between the two is that fluoropolymer coatings are inherently non-stick,

while the ceramic layer in a sol-gel system is not. Instead, a sol-gel pan keeps its non-stick properties only as long as the silicone oil remains in the ceramic layer. For that reason, sol-gel ceramic cookware maintains its nonstick properties for significantly less time, and has a much shorter usable life for a consumer, than a fluoropolymer nonstick counterpart.

14. The cookware manufacturing industry is dominated by a relatively small number of manufacturers, who together are responsible for the overwhelming majority of the market share for consumer products.

15. There are three cookware manufacturing companies that currently make up the membership of Plaintiff CSA: Meyer Corporation U.S., Groupe SEB, and Tramontina.

16. Meyer Corporation U.S. (“Meyer”) manufactures a wide range of kitchenware products, including pots, pans, and other cooking accessories. Meyer is a foreign corporation, incorporated under the laws of the State of Delaware, principally located in Vallejo, California. Meyer is a subsidiary of Hong Kong-based Meyer Manufacturing Co. Ltd. Meyer’s subsidiaries manufacture several well-known lines of fluoropolymer nonstick cookware, including Farberware® and Circulon®. Meyer’s manufacturing is located in China, Hong Kong, Italy, and Thailand.

17. Groupe SEB is a French multinational company headquartered in Ecully, France. It specializes in small domestic equipment, including cookware and kitchen appliances. Groupe SEB is a subsidiary of SEB SA, also based in Ecully, France. Groupe SEB subsidiaries manufacture several well-known lines of fluoropolymer nonstick cookware, including Tefal (a/k/a T-fal®) and All-Clad Metalcrafters, LLC (All-Clad®). All-Clad Metalcrafters, LLC is a subsidiary of Groupe SEB. Groupe SEB’s manufacturing

is located throughout Europe, China, and Brazil.

18. Tramontina is a Brazilian multinational company headquartered in Carlos Barbosa, Rio Grande do Sul, Brazil. It manufactures cookware, cutlery, furniture, tableware, and other products. Tramontina USA, Inc. is headquartered in Sugar Land, Texas, and its products are sold under the brand name Tramontina®. Tramontina's manufacturing is located in Brazil, Canada, Chile, Mexico, Australia, and India.

19. Nationally, the cookware market in the United States was estimated to be \$4.02 billion in 2023. Nonstick Products represented 62.6% of that market, while Other Products represented the remaining 37.4%.

20. The "ceramic" nonstick cookware market is dominated by private label manufacturers and companies such as GreenPan, Blue Diamond, and Gotham Steel, none of which are members of CSA. These companies have developed the production capacity and brand recognition to produce well over 60% of the of the ceramic cookware purchased in the United States in 2024.

21. All of CSA's member companies offer "ceramic" nonstick cookware products. However, those ceramic products represent a comparatively small, niche market in CSA's members' cookware product lines.

22. In contrast, CSA's members supplied fully 47% of the fluoropolymer nonstick products sold in the United States in the twelve-month period ending September 2024, and 57% of the fluoropolymer nonstick products sold in Minnesota during the same period.

23. There is only one significant company in the cookware and bakeware

manufacturing industry that manufactures in Minnesota, which is a company called Nordic Ware.

24. Nordic Ware does not produce fluoropolymer nonstick products.

25. Nordic Ware was founded in Minneapolis in 1946, and built its brand on introducing and trademarking the Bundt pan. Nordic Ware remains based in Minnesota. It is headquartered and has its manufacturing plant in the St. Louis Park suburb of Minneapolis. Nordic Ware has expanded its product lines beyond the Bundt pan since its inception, but the majority of its business remains in bakeware rather than stovetop cookware.

26. While Nordic Ware formerly manufactured a line of fluoropolymer nonstick products, that was only ever an ancillary part of its business. In June 2024 it discontinued its fluoropolymer products altogether. Its nonstick products are now exclusively of the so-called “ceramic” type.

27. As a result, since at least beginning in June 2024, 100% of the fluoropolymer nonstick products in the global market has been manufactured outside of Minnesota.

28. “Ceramic” nonstick and fluoropolymer nonstick products require substantially different production processes. Fluoropolymer nonstick coatings are flexible, allowing them to be applied either by (a) rolling the coating onto a metal disk, which then can be shaped into a pan for the final product, or (b) spraying the coating onto a pre-shaped product. The ceramic layer in “ceramic” nonstick products, in contrast, is too hard to be shaped after application; consequently, the sol-gel process can only be sprayed.

29. Roller coating is a much more efficient process than spraying.

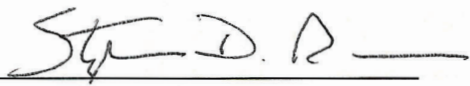
30. The production processes for “ceramic” and fluoropolymer nonstick likewise involve different compounds sourced from different suppliers, different or modified furnaces, and different equipment. Thus, even where these processes share a spraying application in common, practically everything involved in the production process before and after spraying the coating is substantially different.

31. Consequently, existing production infrastructure designed to manufacture fluoropolymer nonstick products cannot be transitioned to a sol-gel manufacturing process easily or cheaply, without what would potentially be a significant overhaul. In particular, the manufacturing infrastructure that uses a rolling method to produce fluoropolymer nonstick products cannot be used to produce “ceramic” nonstick products without significant investments in new processes and equipment.

32. Since at least September 2024, Minnesota distributors have cancelled or failed to renew orders for fluoropolymer nonstick cookware from CSA’s members, resulting in the loss of approximately one quarter of annual sales (approximately \$5.4 million based on annual sales of approximately \$21.8 million in 2023).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 7, 2025


Stephen D. Burns